

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angel Riddle	Team: Squad #5	CCRB Case #: 201906096	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/28/2019 6:30 PM	Location of Incident: Saint John's Episcopal Hospital (327 Beach 19th Street)	Precinct: 101	18 Mo. SOL 12/28/2020	EO SOL 8/14/2021	
Date/Time CV Reported Sat, 06/29/2019 10:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/12/2019 11:02 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Foss	30244	950434	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Foss	Abuse: Police Officer Joseph Foss threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On June 29, 2019, § 87(2)(b) filed this complaint by phone with IAB, generating original log number 19-25876. The CCRB received the complaint on July 12, 2019.

On June 28, 2019, at approximately 6:30 p.m., § 87(2)(b) § 87(2)(b) was dropping a patient off in the emergency room of St. John's Episcopal Hospital at 327 Beach 19th Street in Queens. § 87(2)(b) encountered FDNY EMT § 87(2)(b) FDNY EMT § 87(2)(b) and Police Officer Joseph Foss of the 101st Precinct. PO Foss threatened to arrest § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g) § 87(2)(b) was not arrested or issued a summons in relation to this incident.

The investigation did not obtain video evidence of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Joseph Foss threatened to arrest § 87(2)(b)

It is undisputed that § 87(2)(b) engaged with EMT § 87(2)(b) EMT § 87(2)(b) and PO Foss regarding the treatment of a male patient, and that following this interaction, § 87(2)(b) and PO Foss interacted in a vestibule as they were leaving the hospital. It is further undisputed that PO Foss threatened to arrest § 87(2)(b) during this second interaction.

§ 87(2)(b) recounted that she saw PO Foss, EMT § 87(2)(b) and EMT § 87(2)(b) transporting an unidentified man into the emergency room on a stretcher (BR01). The man's hands were handcuffed behind his back, and he was lying on his back on the stretcher. When PO Foss removed the handcuffs and moved the man into a seated position, § 87(2)(b) stated, "Oh my God, are you really serious?" § 87(2)(b) told the EMTs that younger people have more choices than older people. § 87(2)(b) was standing ten feet away from EMT § 87(2)(b) § 87(2)(b) saw EMT § 87(2)(b) push the man onto a hospital bed. At that point, § 87(2)(b) asked where the Nurse Manager was so that they could advocate for the patient. § 87(2)(b) demonstrated her anger with the situation by shaking her head. After five to seven minutes, § 87(2)(b) exited the Emergency Room to return an empty stretcher to her ambulance. While exiting, § 87(2)(b) encountered PO Foss. PO Foss asked § 87(2)(b) if she was following him and § 87(2)(b) replied that she was not. PO Foss asked § 87(2)(b) for her information, the company she worked for, and her supervisors' number. § 87(2)(b) asked why PO Foss needed this information and he replied, "I'mma lock you up." § 87(2)(b) described her tone as "calm" during this conversation. This interaction lasted approximately five minutes.

PO Foss recounted that § 87(2)(b) approached EMT § 87(2)(b) in the Emergency Room, stood less than one foot away from her, and began to yell that the way the EMTs were handling the patient was "not right" (BR02). § 87(2)(b) stood screaming at the EMTs for approximately five minutes. PO Foss could not recall if § 87(2)(b) made any threats while yelling. § 87(2)(b) began to speak "with her hands" in front of her body approximately two inches away from the EMTs. At least five hospital staff members and patients stood and watched § 87(2)(b). At this time, PO Foss believed that EMT § 87(2)(b) was attempting to wheel away the stretcher but was unable to do so because § 87(2)(b) was standing so close to her. While § 87(2)(b) was yelling, PO Foss told her to step back multiple times.

When PO Foss left the Emergency Room and headed towards the ambulance parking area, § 87(2)(b) followed him to a small vestibule leading to the exit. PO Foss told § 87(2)(b) to stop following him, and she proceeded to scream at him for approximately two minutes. PO Foss told § 87(2)(b) to step back two to three times but she did not comply. The final time PO Foss asked § 87(2)(b) to step back he stated, “Ma’am, if you don’t calm down and step back, I’m going to put you under arrest.” § 87(2)(b) then stood back but continued to yell. PO Foss then walked away from § 87(2)(b). PO Foss testified that § 87(2)(b)’s behavior, both in the Emergency Room and in the vestibule, constituted disorderly conduct, harassment, and obstructing governmental administration. PO Foss did not arrest § 87(2)(b) because he was giving her “professional courtesy” as an EMT.

EMT § 87(2)(b) first became aware of § 87(2)(b) when she heard her “sucking her teeth” nearby as EMT § 87(2)(b) was moving the patient onto a hospital bed (BR03). § 87(2)(b) was approximately two arm’s lengths away from EMT § 87(2)(b) and she never drew closer than that. § 87(2)(b) did not impede EMT § 87(2)(b) or EMT § 87(2)(b) from wheeling the stretcher to the hospital bed, and at no point did § 87(2)(b) impede EMT § 87(2)(b) from completing any of her duties. § 87(2)(b) spoke for approximately 10-15 minutes, during which time EMT § 87(2)(b) and EMT § 87(2)(b) continued to perform their duties. EMT § 87(2)(b) could not recall what § 87(2)(b) was saying, but recalled § 87(2)(b) making negative comments about the way EMT § 87(2)(b) was handling the intoxicated male patient. EMT § 87(2)(b) could not recall if § 87(2)(b) was raising her voice, using profanity, or making gestures. EMT § 87(2)(b) was aware that people in the Emergency Room were watching § 87(2)(b) speak, but she denied that anyone gathered to watch the scene. Near the end of the interaction, PO Foss tried to defuse the situation by telling § 87(2)(b) in sum and substance, “Ma’am, leave it alone,” and, “It’s okay.” EMT § 87(2)(b) did not hear PO Foss issue § 87(2)(b) any commands in the Emergency Room.

§ 87(2)(g)

A person commits obstructing governmental administration in the second degree (“OGA”) when she “intentionally obstructs, impairs or perverts the administration of law” or prevents or attempts to prevent “a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act.” New York State Penal Law §195.05 (BR04).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)
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§ 87(2)(g)
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A person commits harassment in the second degree when, “with intent to harass, annoy or alarm another person,” she “follows a person in or about a public place or places.” New York State Penal Law §240.26 (BR05).

§ 87(2)(g)
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party. § 87(2)(b) subsequently filed two CCRB complaints. § 87(2)(b)
- PO Foss has been a member of service for eight years and has been a subject in ten CCRB complaints and 15 allegations, of which one was substantiated:
 - #201601572 involved a substantiated allegation of physical force (pepper spray) against PO Foss. The Board recommended, and the NYPD imposed, Formalized Training.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this case.
- On March 9, 2020, the undersigned requested a copy of any Notice of Claim filed regarding this incident with the NYC Comptroller’s office. As of the date of this report, no response has been received. The response will be added to the case file upon receipt (BR10).
- The BADS database shows no previous arrests for § 87(2)(b). As a result, a search for prior criminal convictions was not conducted.

Squad No.: 5

Investigator: DG
Signature

IM Giansante for Inv. Riddle
Print Title & Name

June 18, 2020
Date

Squad Leader: *Daniel Giansante* IM Daniel Giansante June 18, 2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date